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February 2, 2022

VIA CM/ECF

The Honorable Maryellen Noreika
J. Caleb Boggs Federal Building
844 N. King St.
Wilmington, DE 19801-3555

Re: Spahr, et al. v. Collins, et al.
19-113 MN

Dear Judge Noreika:

Pursuant to this Court's Minute Entry on January 27, 2022, the parties have begun settlement discussions. Plaintiffs' counsel made an initial demand on January 28, 2022. Counsel for Defendants have discussed the demand with their clients, and after conferring with Plaintiffs' counsel, believe that mediation may be the best avenue to attempt to resolve this matter. As a result, the parties request the Court's approval to mediate this matter before Chief Magistrate Judge Mary Pat Thyng.

Pursuant to the Court's request that counsel identify the amount of time spent counseling their respective clients on mediation and/or settlement in this matter and identify who was involved in such discussions: Defense counsel has advised officials of the Delaware Department of Services for Children, Youth & Their Families regarding settlement and mediation for approximately three to four hours. Plaintiff's counsel has likewise counseled Plaintiffs on settlement and mediation in this matter for approximately 1.5 to 2 hours. Furthermore, counsel for the parties have also discussed settlement in this matter for approximately 1 to 2 hours.

In addition, Plaintiff's Counsel has proffered to Defense Counsel working drafts of the following:

- a. Pre-Trial Order
- b. Preliminary Jury Instructions
- c. Proposed Voir Dire
- d. Proposed Joint Jury Instructions

The parties will be prepared to file final versions of these documents by Tuesday, February 8, 2022.

As part of settlement discussions, and after serious thought and discussion between counsel, the parties jointly propose the following:

1. Continuance of the 3-day Jury Trial set for February 23, 2022 to allow the parties sufficient time to engage in mediation.
2. The parties be allowed to engage Chief Magistrate Judge Mary Pat Thyng to schedule Mediation.
3. If settlement is not achieved, the parties will move forward with dispositive motions, if the Court allows, and trial.

The parties make this proposal jointly and wish to engage in a serious effort to resolve the matter prior to trial. Thank you for your consideration of this joint request.

Respectfully submitted,

/s/Robert M. Kleiner
Robert M. Kleiner (DE No. 5505)
Deputy Attorney General

cc: Ronald Poliquin, Esq. (via CM/ECF)